DOCUMENT RESUME

ED 223 028 EC 150 328

TITLE	Parents Can Be the Key...To an Appropriate Education for Their Handicapped Child.
INSTITUTION	PACER Center, Inc., Minneapolis, MN.
SPONS AGENCY	Office of Special Education and Rehabilitative Services (ED), Washington, DC. Div. of Personnel Preparation.
PUB DATE	Apr 81
NOTE	29p.
AVAILABLE FROM	PACER Center, Inc., 4701 Chicago Ave. South, Minneapolis, MN 55407 ($1.00).
PUB TYPE	Guides - Non-Classroom Use (055)
EDRS PRICE	MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	*Child Advocacy; Civil Rights; *Disabilities; Equal Education; Federal Legislation; *Individualized Education Programs; *Parent Role; Parent School Relationship; Special Education
IDENTIFIERS	*Minnesota

ABSTRACT

Written for parents of handicapped children in Minnesota, the booklet decribes parents' rights and responsibilities in special education. The question and answer format addresses the following topics: changing rights as a result of P.L. 94-142 (The Education for All Handicapped Children Act) and Section 504 of the Rehabilitation Act of 1973; types of disabilities and ages of eligibility; components of the assessment process; parental role in assessment; individualized education programs; related services; appropriate placement; procedures (including due process hearings and appeals) that parents can take when they do not agree with the schools; suggestions for communicating with the school; and ways to be a good advocate. The booklet concludes with answers to seven rights-related questions and a list of Minnesota organizations and referral sources. (CL)

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TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

Parents Can Be The Key...

to an appropriate education for their handicapped child

A handbook on parent rights and responsibilities in special education

PACER Center, Inc.
4701 Chicago Ave. So.
Minneapolis, MN 55407
(612) 827-2966 Voice and TTY
(Parent Advocacy Coalition for Educational Rights)

EC150328

About PACER Center

PACER Center (the Parent Advocacy Coalition for Educational Rights) is a coalition of 18 Minnesota organizations concerned with the education of children with physical, mental, emotional, and learning handicaps, and other health impairments. (See page 25 for list of organizations).

It is funded by a grant from the Division of Personnel Preparation, Office of Special Education, U.S. Department of Education.

PACER Center provides two programs, parent training and COUNT ME IN, a handicap awareness project. The function of the parent training program is to inform parents of handicapped children of their rights and responsibilities in special education. Through public information, parent workshops, advocacy training, and individual advocacy assistance, PACER Center helps parents understand and implement their children's right to a free, appropriate public education.

The COUNT ME IN program trains volunteers to present puppet shows and other handicap awareness programs to preschool and elementary age children.

For individual assistance or information on any of these activities, contact PACER Center.

PACER Center co-directors are Paula Goldberg and Marge Goldberg. The artist for this booklet was Deborah Krupp.

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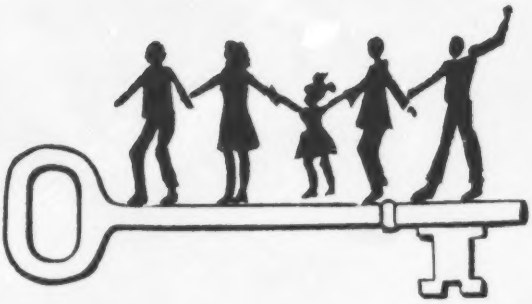
Parents Can Be The Key...



You, as the parent of a child with a special need, **can** be the key to an appropriate education for your son or daughter.

You know more about your child than anyone else does. Because of this knowledge, you are a vital member of the team that plans your child's education.

With your assistance, your child can receive the kind of education that will help develop his or her abilities to the fullest.

You can contribute important information to your child's educational plan, and you can take action to make changes when they are needed.

But to do this, you need to know your rights and your child's rights. You need to know how to make use of your rights and to exercise your responsibilities as well.

This booklet is an overview. For further information or individual advocacy assistance, contact:

PACER Center
4701 Chicago Ave. So.
Minneapolis, MN 55407

(612) 827-2966 - Voice and TTY

Parents of handicapped children in Minnesota may call collect.

What are my child's rights... and mine as parent?

Since the early 1970's, many changes have been made in special education as a result of federal court decisions, federal laws and state laws.* Most of these changes have occurred because parents and professionals were striving to improve educational opportunities for handicapped children.

Here, in brief, is what these changes mean to you and your child.

- Your handicapped child is entitled to a free public education that is appropriate to his/her individual needs.
- Whenever possible, your child should be educated with children who are not handicapped. (This is often referred to as education in the "least restrictive alternative.")
- Tests given to your child must not discriminate on the basis of his/her handicap or racial or cultural background.
- You as the parent or guardian can participate in making decisions about your child's education.
- You must be notified in writing when changes in your child's education are being considered.
- You and the school are entitled to make use of appeals when differences of opinion occur.
- You have the right to see your child's educational records, to have them explained, and to obtain copies.
- School programs must be accessible so that all handicapped children can receive appropriate services.
- Children whose parents are unknown or not available must be represented in the educational process by surrogate (substitute) parents.

*The federal laws are Public Law 94-142 (the Education for All Handicapped Children Act) and Section 504 of the Rehabilitation Act of 1973. The state law is Minnesota Statute 120.17.

What handicaps entitle children to receive special education services?

The disabilities or special needs that are mentioned in special education laws are as follows:

- learning disabilities
- mental retardation
- emotional disturbances
- special behavior problems (Minnesota law)
- speech impairment
- vision impairment
- hearing impairment
- physical handicaps
- other health impairments (e.g. autism, epilepsy, diabetes)

Even if a child's disability is not visible or obvious to the observer, he or she may be eligible for special services or for modifications in the educational program.

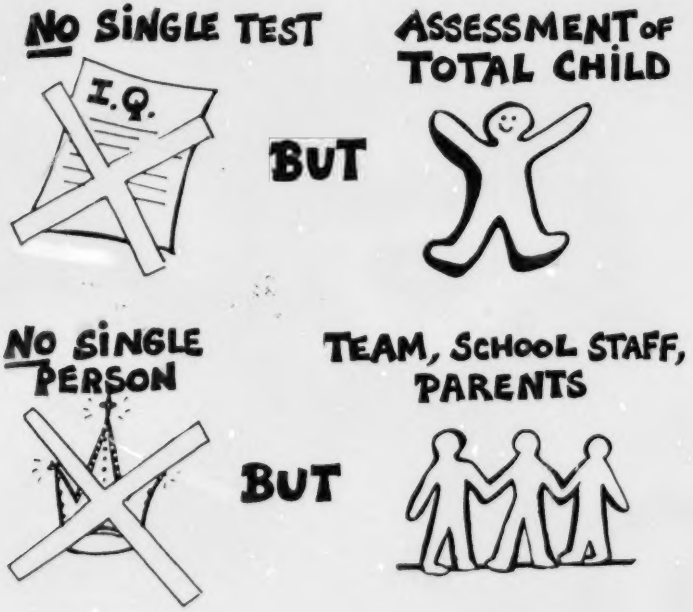
At what age can a child receive special education services?

In Minnesota, school districts are required to serve handicapped children from age 4 (if the child has reached 4 before the beginning of the school year) until age 21 **or** completion of high school.

How does it all start?

The first step toward deciding whether a child needs special education-and, if so, what kind of services will be provided--is the **assessment**, or evaluation.

An assessment is a way of studying "the whole child" to learn about his/her needs, disabilities, the things he does well and those that are difficult for him. The purpose of the assessment is to determine what services would be appropriate; **it is the basis for your child's educational plan.** For that reason, it is important for you as the parent to make sure the assessment gives an **accurate** and complete picture of your child.



Usually, people think of tests when they think of an assessment. Tests are an important part of the assessment process.

Depending on your child's needs, tests might include one or more of the following:

- Speech and language tests
- Personality and adaptive behavior tests
- Achievement tests
- Potential or aptitude (intelligence) tests
- Perceptual tests

All tests must be given to your child:

- Individually
- In his or her primary language
- In a way that does not discriminate in terms of disability or racial/cultural background

Assessments must be **comprehensive**, including all appropriate types of tests, and must be administered by **qualified personnel.**

The assessment process, in addition to testing, should include:

- Observations by staff who have worked with your child
- Medical history, when it is important to a child's performance in school
- Parents' information and observations about the child's--
    - previous school experiences
    - abilities and behavior outside of school setting
    - feelings about school

Remember, you've known your child longer than anyone in the school and you observe him/her in many different situations. **You have important information to offer!**

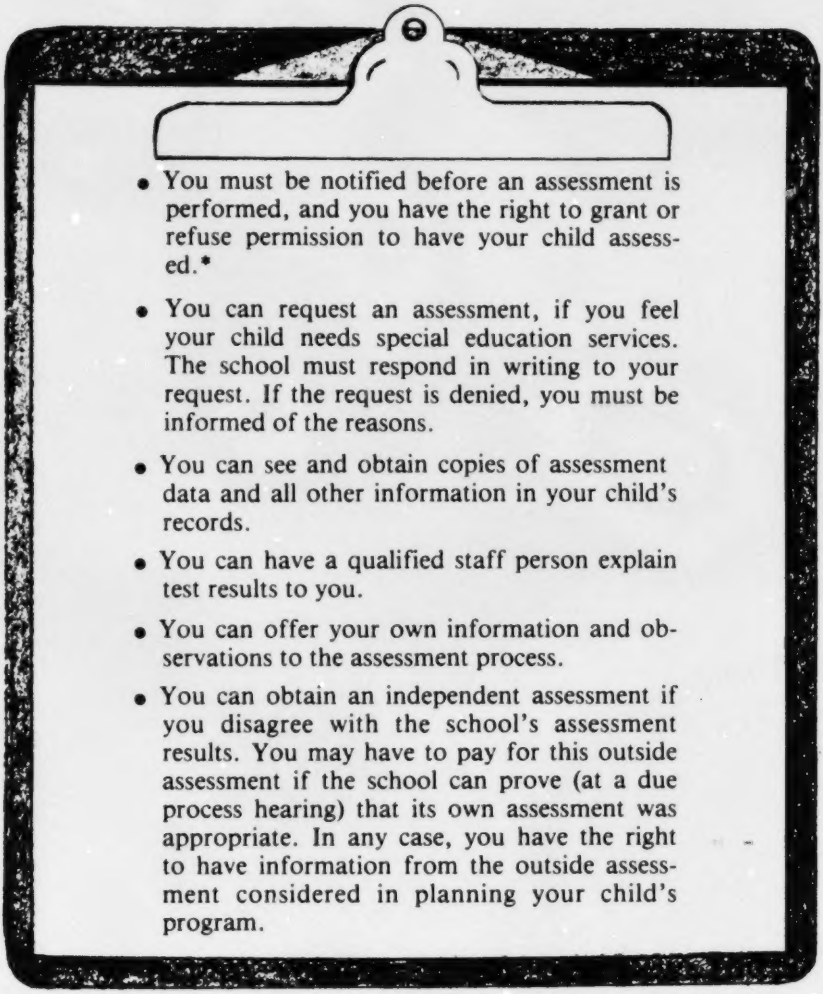
Will there be more assessments once my child receives special education?

Yes. If your child spends most of his/her school day receiving special education services, and if special education staff have primary responsibility for the program, he or she must be reassessed at least every two years, under Minnesota law.

If, on the other hand, regular education staff have primary responsibility for your child's program, the reassessment is to be done at least every three years.

These reassessments help ensure that your child's program will be modified as his or her needs change.

How can parents play a role in the assessment process?



- You must be notified before an assessment is performed, and you have the right to grant or refuse permission to have your child assessed.*
- You can request an assessment, if you feel your child needs special education services. The school must respond in writing to your request. If the request is denied, you must be informed of the reasons.
- You can see and obtain copies of assessment data and all other information in your child's records.
- You can have a qualified staff person explain test results to you.
- You can offer your own information and observations to the assessment process.
- You can obtain an independent assessment if you disagree with the school's assessment results. You may have to pay for this outside assessment if the school can prove (at a due process hearing) that its own assessment was appropriate. In any case, you have the right to have information from the outside assessment considered in planning your child's program.

*Be sure to respond in writing to the school's request to assess your child, informing them of your consent or refusal. If this is your child's first assessment, the school must wait for your written consent in order to proceed. If, however, this will be a reassessment, the school may go ahead if you do not respond within 10 days.

The IEP - your child's "tailor-made" educational plan

Every child is unique. Your child's special education plan should not be exactly the same as anyone else's, even those of other children with the same disability.

The individualized education plan (IEP) should be tailor-made to fit your child's needs and abilities, as determined by the assessment.

You must be invited to the conference or planning meeting to discuss your child's IEP. It is essential for you to attend if you wish to be involved in your child's plan! Others who must be present are your child's regular and/or special education teacher and a representative of the school's administration. Additional school staff who are important to your child's education may attend, and, if appropriate, the student should be present.

To prepare for the staffing conference, you should:

- Review your child's assessment data and/or records. You have the right to have a qualified staff person explain the results to you. You may wish to do this before the staffing conference.
- Make notes about information you want to contribute at the meeting.
- Consider visiting the classroom to observe how your child is doing.
- Talk to your child about his/her feelings about school.
- Consider inviting a friend, another parent, or an advocate to attend the staffing conference with you.

What are special education and related services?

Special education services are specially designed instruction to meet the unique needs of a handicapped child. These services are given by special education staff in any of the "levels of service" listed in the following section. An example is the service given by an SLBP teacher (special learning and behavior problems--Minnesota term.)

Related services are supportive services that may be needed by a particular child **in order for him or her to benefit from special education.** Examples are special transportation, physical and occupational therapy, and psychological services.

The assessment is the tool for determining what special education and related services are needed. If the assessment shows a need, all services must be provided at no cost to the parent and should be written into the IEP.

What kind of placement might be appropriate for my child?

Because every handicapped child is different, a variety of placements should be available. Not every school district offers all these "levels of service," but special arrangements should be made if a child needs a program that is not currently available.

Here are the levels of service that might be appropriate for different children, as outlined in Minnesota law:

(1) Child is in a regular classroom with no special education services but is monitored and observed.

(2) Child is in a regular classroom; the special education teacher gives assistance to the classroom teacher but does not work directly with the child.

(3) Child is in regular education as a "primary placement"* and receives some direct special education service.

(4) Child is in special education as a "primary placement"* and spends some time with non-handicapped children in regular classes.

(5) Child is in a full time special education class, special station or special school.

(6) Child is in a special education program at a residential facility for handicapped children.

Keep in mind that your child should be educated with non-handicapped children whenever possible. Your child may move from one "rung" of the ladder to another as his or her needs change.

*"Primary placement" relates to staff responsibility, or whether regular education staff or special education staff have major responsibility for a child's program.

What makes a good IEP?

Here are some things to look for in your child's IEP:

- Annual goals and short-term objectives for the period covered in the IEP. A goal is a general plan for accomplishment; objectives are specific steps to achieve the goal.
- A list of services that will be provided, including

-kinds of services
-who will provide them
-where they will be provided
-how often they will be provided (daily or weekly schedule)

- What, if any, "related services" will be provided, such as transportation or physical therapy.
- Adapted physical education or a vocational education program, if your child has these needs.
- A plan for periodic reviews of your child's progress, with dates for the meeting(s). Reviews should occur at least twice a year following placement (Minnesota law). Parents are not always included in all these review meetings. If you want to attend, ask to be invited.

Now ask yourself some questions as you read the completed IEP.

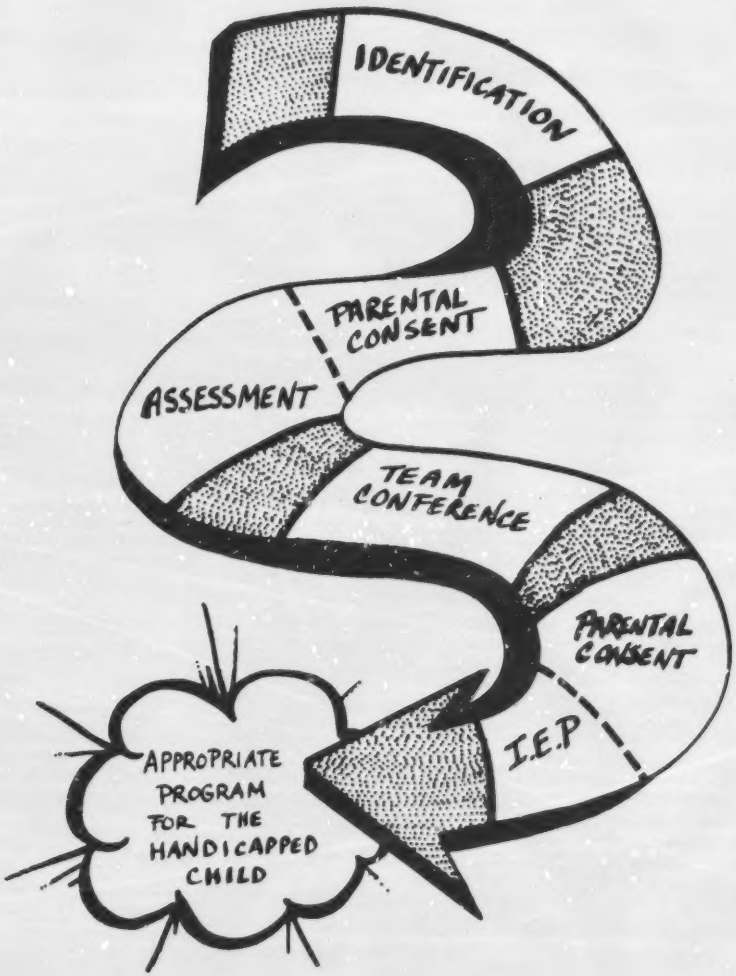
- Is it understandable?
- Can it be used by staff as a basis for teaching?
- Can your child's progress toward reaching each objective be easily measured?
- Are dates listed for each objective to be accomplished?

How can parents be involved in the IEP?

- You must be invited to attend the planning meeting.
- You can contribute ideas and information to the planning process.
- You can bring a friend, advocate, or outside professional to the planning meeting.
- You must receive a written copy of the IEP following the conference. You have the right to approve or disapprove this plan.* You do not have to sign it at the meeting.
- If you have informed the school that you disagree with the IEP as written and have not been able to resolve your differences, you are entitled to a conciliation conference under Minnesota law. You also have the right to request a due process hearing (see page 18).

*Be sure to give your consent or disapproval of the IEP in writing. If this is your child's first IEP, the school must wait for your written consent before starting a program for your child. If, however, this is not the first IEP, the school may go ahead with a program if you do not respond within 10 days.

Summary-
The planning process in special education



What can I do when I don't agree with the school?

When differences arise, try first to resolve them informally. If such efforts are not successful, you have the following options.

1. Conciliation conference

The conciliation conference, which is unique to Minnesota law, is your opportunity to "iron out" disagreements with the school in an informal setting. You have the right to bring with you a friend, advocate, or other representative. Parents and school personnel can present and discuss their viewpoints at the conference and attempt to find a solution. More than one conciliation conference may be held if the first conference does not resolve the problem.

You must be granted a conciliation conference if:

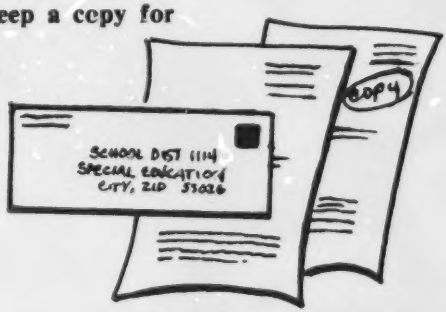
- You have refused consent to an assessment
- You have indicated disapproval of an IEP

You can also **request** a conciliation conference at any time, if you are having difficulty resolving disagreements by other methods. Some situations in which you might request a conciliation conference are as follows:

- You believe that transportation services are not appropriate

- You believe your child is not receiving appropriate service
- You think that additional services are needed
- You believe that the school's assessment is inappropriate and you want the school to pay for an outside assessment

To request a conciliation conference, send a letter to your principal and to the director of special education for the school district. **Keep a copy for yourself.**



2. Due Process Hearing

You or the school may request a due process hearing at any time, if you have not been able to resolve your differences through team staffings or a conciliation conference. To request a hearing, write to the director of special education for your school district. Keep a copy of your request.

The due process hearing is more formal than the conciliation conference. An impartial hearing officer serves as a third party to hear both sides and issue a decision. The decision must be issued in writing within 45 days of the request for a hearing.

If you are involved in a due process hearing, it is advisable to be represented by an attorney who is familiar with special education laws. Ask the school district for a list of free or low-cost legal services in your area, or contact one of the agencies listed in the back of this booklet.

3. Appeal to State Commissioner

If you are not satisfied with the decision of the hearing officer, you may **appeal to the State Commissioner of Education**, who will review the case and issue a written decision.
If you are not satisfied with the Commissioner's decision, you may choose to initiate a lawsuit in district or federal court.

The procedures described above should be used in situations in which you and the school disagree about services for your child.

NOTE: Time periods are set by state and federal law for responses or actions by parents and schools at various stages of the planning and appeals processes. These time periods are intended to reduce unnecessary delay. For details, contact PACER Center, (612) 827-2966.

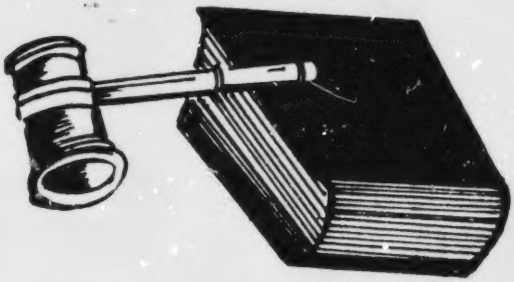
4. Other kinds of appeals

In addition to the due process procedures, two other avenues of appeal may be open to you. Here, too, you should attempt to resolve differences informally first.

The State Complaint Procedure can be used when a school district is out of compliance with state or federal law. For example, it may be used if the district does not notify parents in advance of assessments or does not meet state requirements for length of school day. The complaint procedure may be used by any individual (parent, teacher, or other person), or by an agency or organization.

Complaints must be addressed in writing to the Assistant Commissioner of Education, Special Education Section, Minnesota Department of Education, Capitol Square Bldg., 550 Cedar St., St. Paul, MN 55101. The complaint officer will investigate and issue a report to both parties within 60 days of receiving the written complaint.

Also, **Section 504** of the Rehabilitation Act of 1973 offers a procedure for cases in which a person is discriminated against solely on the basis of his or her handicap. If, for example, the school district does not make appropriate modifications in transportation, facilities or programs to accommodate a handicapped child's special needs, a Section 504 complaint may be filed. To do so, address the complaint in writing to the Office for Civil Rights, Region V, 399 South Wacker Dr., 8th floor, Chicago, Illinois 60606.



Some tips for good communications between parents and schools

1. Keep in touch with your child's teacher or teachers frequently...by telephone calls, notes or personal visits. Let the teacher know your ideas about your child; things he or she does well, ways he/she learns best, etc. Ask questions about anything you don't understand.

2. Express your feelings. Let the staff know when you feel they are doing a good job and when you feel that things are not going well.

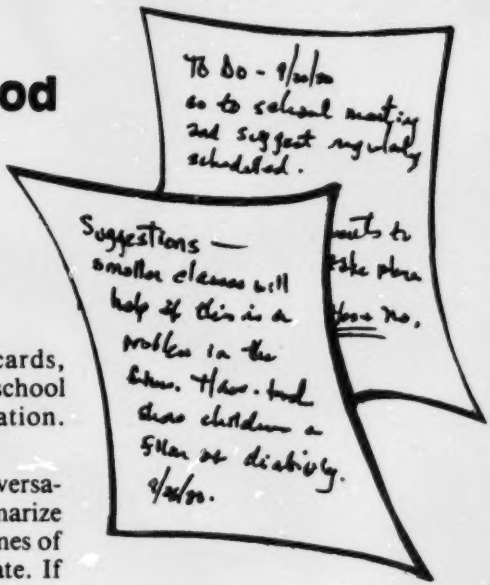
3. Attend all meetings relating to your child's education. Be an active, interested parent.

4. Be a good listener. Encourage the staff to keep you informed about your child's progress, relationship with other children, and any problems or concerns they may have. Listen to the staff's professional opinions about your child. Remember, school personnel can be good advocates for your child, too!

5. When differences of opinion arise, talk them out. Look for ways to reach a compromise, but keep your child's needs uppermost in your mind!

6. Help your child develop a positive attitude toward school.

How to be a good advocate for your child



1. Know your rights!

2. Save all notes, report cards, IEPs,and notices from the school regarding your child's education. Make sure they are dated.

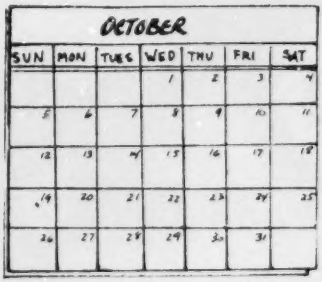
3. Make notes on telephone conversations and meetings as well. Summarize the conversation, include the names of people you spoke to, and the date. If decisions are made by telephone or in a meeting, write up a summary of what was decided, send it to the person you spoke with, and keep a copy for your file.

4. Make notes on questions you want to ask or information you want to offer before you go to meetings.

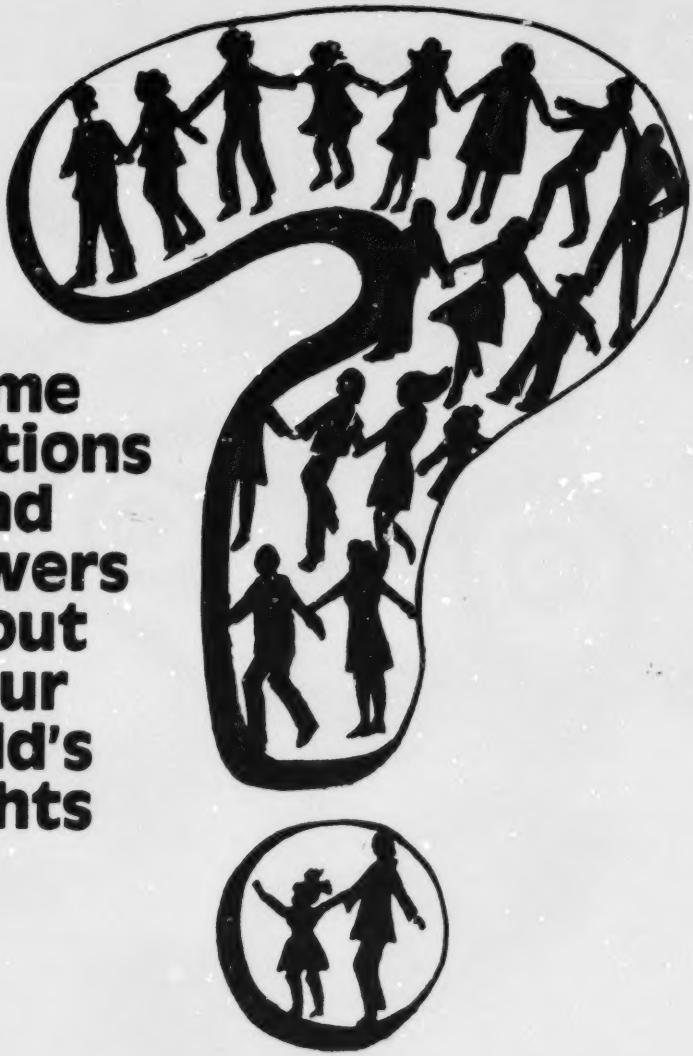
5. Put requests in writing whenever possible, and keep copies of all correspondence.

6. Mark dates in your calender ...meetings, dates by which certain actions should be taken, reminders to follow up.

7. Get to know other parents of handicapped children. If there isn't an active parent group in your area, organize one. Contact people who are advocates for children. Learn more about your child's disability.



Some Questions and Answers about Your Child's Rights



Q: Can I get special education services for my handicapped child who is under age 4?

A: Although districts in Minnesota are not **required** to serve handicapped children under age 4, some districts do provide programs for younger children. Even if your district does not have such a program, you can request an assessment and inquire about preschool services that may be available from other agencies in your area.

Q: My son is 15. I am concerned about what will happen when he finishes high school. Can I begin planning a vocational program for him?

A: Yes. This is a good time to begin inquiring about vocational programs in high school and after high school. Ask for a vocational needs assessment. If vocational needs are determined, vocational goals and objectives should be written into your son's IEP. You will have the same rights in planning these programs as you do with other special education services. Talk with the people in charge of vocational programs in the high school your son will attend. Visit post high school vocational programs in your area as well. Find out what adaptations they can make to meet your son's special needs.

Q: What if my child is not in a public school...do I have the same rights?

A: Your local public school district has the responsibility to offer special education services to all children in the district who need services, even if they do not attend public schools. Parents of nonpublic school students have the right to refuse such services. If the parents do consent to have their children receive special education services, the same procedural safeguards that are available to public school students must be available to these students. Special education instruction will be provided at the public school or at a "neutral site" such as another building.

Q: Can I have changes made in the IEP after I have signed it?

A: Yes. The IEP should be considered a flexible document. If you or a school staff member see that the plan is not working well, you should meet to discuss possible changes. The review of the IEP is the major opportunity to make changes, but if a problem needs attention before the review date, request an additional meeting.

Q: Can the school change my child's placement without notifying me?

A: No. Any change such as offering a new service, discontinuing a service, or moving a child to a more segregated (restrictive) setting, can be made only after the school has notified you of its intention and has requested your consent.

Q: What can I do to keep my child from being labeled as handicapped? I'm afraid the other students, and maybe the teachers, will treat her differently.

A: With more placement of handicapped and non-handicapped children in the same classrooms, children who receive special education services may not feel as isolated and "different" as they once did. The "label" is only a method of assuring that the child will be served. It should not be used on a day-to-day basis to describe the child. If you feel your child needs special education service, ask for an assessment. If the assessment shows a need, you can be involved in planning your child's services.

Q: Can I have information removed from my child's records?

A: Yes. If you believe that any test results, comments from staff, or other information in your child's records are inaccurate or misleading, contact the principal to ask that the information be removed. If this is not done, you can ask for a hearing to review the matter. This hearing, which is held at the school, is different from due process hearings under the special education laws. The procedure is outlined under a federal law referred to as the Buckley Amendment (further information is available from PACER Center.)

Additional organizations that may be helpful

Following are the organizations that participate in the PACER Center coalition. PACER Center can put you in contact with these organizations and with other advocacy groups and agencies serving handicapped persons.

Comprehensive Epilepsy Program
Courage Center
Friends of Hearing Handicapped Children
Mental Health Association of Minnesota
Mental Health Advocates' Coalition
Minneapolis Association for the Hearing Impaired
Minnesota Association for Children with Learning Disabilities
Minnesota Association for Retarded Citizens
Minnesota Committee for the Handicapped
Minnesota Epilepsy League
Minnesota Foundation for Better Hearing and Speech
Minnesota Speech-Language and Hearing Association
Minnesota State Council for the Handicapped
Muscular Dystrophy Association of Minnesota
National Federation of the Blind of Minnesota
Spina Bifida Association of Minnesota
Twin Cities Society for Autistic Children
United Cerebral Palsy of Minnesota

If you need legal assistance, the following agencies may be able to serve you.

1. Developmental disabilities

Legal Advocacy for the Developmentally Disabled of Minnesota
222 Grain Exchange Bldg.
323 4th Ave. S.
Mpls., MN 55415
(612) 338-0968
Outstate Toll Free Number 1-800-292-4150

2. Hearing impairments

Legal Advocacy for Hearing Impaired Persons
222 Grain Exchange Bldg.
323 4th Ave. S.
Mpls., MN 55415
(612) 332-1441 Voice
(612) 332-4668-TTY

3. Vision impairments

Advocates for the Blind
1821 University Ave.
St. Paul, MN 55104
(612) 645-3920

4. Juveniles

There are youth rights protection offices in St. Paul, Minneapolis, Worthington, Mankato, Albert Lea, Winona, Carver, Little Falls, St. Cloud, and Duluth. The central headquarters is:

The Coalition for the Protection of Youth Rights
Administrative Office
Central Minnesota Legal Services
222 Grain Exchange Bldg.
323 4th Ave. S.
Mpls., MN 55415
(612) 332-1441

In addition to these legal services for handicapped persons and juveniles, there are general legal aid offices in many counties in the state.

KNOW YOUR RIGHTS AND RESPONSIBILITIES SO THAT YOU CAN BE A GOOD ADVOCATE FOR YOUR CHILD

Remember, **IEP** can also stand for